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12  
13 Attorneys for Plaintiff  
BLUE SKY NETWORKS, LLC

14  
15 IN THE UNITED STATES DISTRICT COURT  
16 FOR THE NORTHERN DISTRICT OF CALIFORNIA

17 OAKLAND DIVISION

18 BLUE SKY NETWORKS, LLC,

19 Plaintiff,

20 v.

21 FITBIT, INC.,

22 Defendant.

Case No. 4:17-cv-06543-YGR

**STIPULATION & ORDER RE: DISCOVERY  
OF ELECTRONICALLY STORED  
INFORMATION FOR PATENT LITIGATION**

Judge: Honorable Yvonne Gonzalez Rogers

1 Upon the stipulation of the parties, the Court ORDERS as follows:

2       1. This Order supplements all other discovery rules and orders. It streamlines Electronically  
3 Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive determination of this  
4 action, as required by Federal Rule of Civil Procedure 1.”

5       2. This Order may be modified in the Court’s discretion or by stipulation. The parties shall  
6 jointly submit any proposed modifications within 30 days after the Federal Rule of Civil Procedure 16  
7 Conference.

8       3. As in all cases, costs may be shifted for disproportionate ESI production requests pursuant  
9 to Federal Rule of Civil Procedure 26. Likewise, a party’s nonresponsive or dilatory discovery tactics are  
10 cost-shifting considerations.

11       4. A party’s meaningful compliance with this Order and efforts to promote efficiency and  
12 reduce costs will be considered in cost-shifting determinations.

13       5. The parties are expected to comply with the District’s E-Discovery Guidelines  
14 (“Guidelines”) and are encouraged to employ the District’s Model Stipulated Order Re: the Discovery of  
15 Electronically Stored Information and Checklist for Rule 26(f) Meet and Confer regarding Electronically  
16 Stored Information.

17       6. General ESI production requests under Federal Rules of Civil Procedure 34 and 45 shall  
18 not include email or other forms of electronic correspondence (collectively “email”). To obtain email  
19 parties must propound specific email production requests.

20       7. The parties do not currently believe that email production will be necessary. If either  
21 party determines at a later date that email production is warranted, the parties will confer and agree to  
22 email discovery limitations with respect to the number of custodians and search terms are appropriate for  
23 any such email discovery.

1           **IT IS SO STIPULATED**, through Counsel of Record.

2           Dated: March 9, 2018

By:

*Marc Belloli*  
Marc Belloli

4           Attorneys for Plaintiff  
5           BLUE SKY NETWORKS, LLC

6           Dated: March 9, 2018

DURIE TANGRI LLP

8           By: *Eugene Novikov*

9           CLEMENT S. ROBERTS  
10          TIMOTHY C. SAULSBURY  
11          EUGENE NOVIKOV

10          Attorneys for Defendant  
11          FITBIT, INC.

12          Attestation

13          In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has  
14          been obtained from any other signatory to this document.

16          */s/ Marc Belloli*  
17          Marc Belloli

18          **IT IS ORDERED** that the forgoing Agreement is approved.

20          Dated: March 14, 2018

  
21          " YVONNE GONZALEZ ROGERS  
22          UNITED STATES DISTRICT JUDGE